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By:  Hinojosa S.B. No. 1325

A BILL TO BE ENTITLED

AN ACT

relating to certificates of public convenience and necessity for certain transmission projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  The legislature finds that:

(1)  this state has long been a leader in energy policy that has delivered economic, electricity, and environmental benefits to millions of electricity consumers, businesses, state-owned lands, and landowners;

(2)  this state continues to experience population, business, industrial, and manufacturing growth that increases the need for reliable, low-cost electricity;

(3)  the ERCOT electric power grid is experiencing increased levels of congestion, constraint, and curtailment that are economically undesirable;

(4)  the ERCOT electric power grid is experiencing load growth management challenges;

(5)  while this state does not import large amounts of electricity, working to ensure that this state's electricity needs are met as fully as possible from in-state resources is of strategic interest to the legislature;

(6)  the electric power industry, including its wind and solar generation, energy storage, and transmission components, can play a substantial role in this state's economic recovery;

(7)  this state's oil and natural gas industries continue to grow and prosper, and those industries require low-cost electricity and a reliable electric power grid to thrive; and

(8)  to attract new capital projects to this state, create jobs, promote substantial new economic development, ensure a reliable and stable electric power grid that is powered by in-state resources, and keep this state as a leader on energy policy in the United States, a timely and targeted expansion of this state's electric transmission system is necessary to enhance the reliability of the system.

SECTION 2.  Section 37.0541, Utilities Code, is amended to read as follows:

Sec. 37.0541.  CONSOLIDATION OF CERTAIN PROCEEDINGS. The commission shall consolidate the proceeding on an application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line with the proceeding on another application to obtain or amend a certificate of convenience and necessity for the construction of a transmission line if it is apparent from the applications or a motion to intervene in either proceeding that the transmission lines that are the subject of the separate proceedings share a common point of interconnection. [~~This section does not apply to a proceeding on an application for a certificate of convenience and necessity for a transmission line to serve a competitive renewable energy zone as part of a plan developed by the commission under Section 39.904(g)(2).~~]

SECTION 3.  Section 37.056, Utilities Code, is amended by amending Subsection (d) and adding Subsections (d-1), (d-2), and (d-3) to read as follows:

(d)  The commission by rule shall establish criteria, in addition to the criteria described by Subsection (c), for granting a certificate for a transmission project that serves the ERCOT power region and[~~,~~] that is not necessary to meet state or federal reliability standards[~~, and that does not serve a competitive renewable energy zone~~].

(d-1)  Except as provided by Subsection (d-2), an application for a certificate described by Subsection (d) [~~The criteria~~] must include a comparison of the levelized estimated cost of the transmission project and the estimated cost savings and economic benefits that may result from the [~~transmission~~] project. The commission shall include with the commission's decision to grant or deny the certificate the commission's findings on the comparison. The comparison must account for:

(1)  the probable improvement of service or reduction of costs for consumers that may be realized from the project;

(2)  an estimated value for reduced congestion and curtailments that may be realized from the project;

(3)  an estimation of reduced transmission losses that may be realized from the project;

(4)  an assessment of the effect on sufficient access to the ERCOT power region market by new electric power generation that may be realized from the project;

(5)  an estimation of reduced future transmission investment costs that may be realized from the project;

(6)  an estimation of costs of projects described by Subsection (d-2) that may be avoided as a result of the project; and

(7)  an estimation of direct economic benefits that may be realized from the construction of the project [~~The commission shall include with its decision on an application for a certificate to which this subsection applies findings on the criteria~~].

(d-2)  If an application does not include a comparison described by Subsection (d-1), the commission may not grant a certificate for a project described by Subsection (d) unless the commission finds that the project is needed to support a reliable and adequate transmission network and to facilitate robust wholesale competition and minimize curtailments due to congestion.

(d-3)  Not less than once per year, the independent organization certified under Section 39.151 for the ERCOT power region shall identify transmission projects that will meet commission findings under Subsection (d-2).

SECTION 4.  Section 39.904(k), Utilities Code, is amended to read as follows:

(k)  The commission and the independent organization certified for ERCOT shall study the need for increased transmission and generation capacity throughout this state and report to the legislature the results of the study and any recommendations for legislation. The report must be filed with the legislature not later than December 31 of each even-numbered year [~~and may be filed as a part of the report required by Subsection (j)~~].

SECTION 5.  Subchapter Z, Chapter 39, Utilities Code, is amended by adding Section 39.918 to read as follows:

Sec. 39.918.  CRITICAL DESIGNATION TRANSMISSION INFRASTRUCTURE PROJECTS. (a) Not later than December 30, 2021, the independent organization certified under Section 39.151 for the ERCOT power region shall:

(1)  identify, in consultation with the commission, critical designation transmission infrastructure projects and the electric utilities or transmission and distribution utilities that will construct and operate the projects; and

(2)  submit a written description of each project to the commission.

(b)  Projects identified under Subsection (a) must facilitate a timely and targeted expansion of the electric power grid in ERCOT for the purposes of:

(1)  resolving existing transmission congestion, constraints, and curtailments, including generic transmission constraints; and

(2)  ensuring the future reliability of the ERCOT electric power grid.

(c)  To the extent practicable, projects identified under Subsection (a) should:

(1)  be cost-effective and designed to transmit high volumes of electricity across ERCOT regions efficiently;

(2)  replace aging infrastructure or follow routes that align with existing rights-of-way or existing transmission infrastructure;

(3)  be designed to accommodate circuit voltages of 500 kilovolts or greater, including high voltage direct current circuits; and

(4)  be designed to reduce significantly present or expected future congestion between ERCOT load zones and between ERCOT weather zones, including between:

(A)  the ERCOT Far West weather zone and the ERCOT North Central weather zone;

(B)  the ERCOT West load zone and the ERCOT North load zone;

(C)  the ERCOT South weather zone and the ERCOT North Central weather zone;

(D)  the ERCOT North load zone and the ERCOT Houston load zone; and

(E)  the ERCOT South load zone and the ERCOT Houston load zone.

(d)  The independent organization certified under Section 39.151 for the ERCOT power region shall consult with a representative of the comptroller and a representative of the Texas Economic Development and Tourism Office to identify projects under Subsection (a) that would facilitate the growth of the economy of this state, including oil and gas, commercial, and industrial development that will provide substantial new tax revenue, landowner income, or new jobs in this state.

(e)  Not later than 450 days after the date that the independent organization certified under Section 39.151 for the ERCOT power region submits a written description of a project to the commission under Subsection (a), the utility that will construct and operate the project shall submit to the commission an application for a certificate of public convenience and necessity for the project.

(f)  In considering an application for a certificate of public convenience and necessity for a project identified under Subsection (a), the commission is not required to consider the factors provided by Sections 37.056(c)(1) and (2). The commission shall consider all factors provided by Section 37.056, including Sections 37.056(c)(1) and (2), for a project not identified under Subsection (a).

(g)  If the commission issues a certificate of public convenience and necessity for a project identified under Subsection (a), the commission shall find that the project is used and useful to the utility in providing service for purposes of this section, prudent, and includable in the rate base, regardless of the extent of the utility's actual use of the project.

(h)  Transmission service that is facilitated through a project identified under Subsection (a) must be provided in a manner consistent with Subchapter A, Chapter 35.

(i)  This section expires September 1, 2030.

SECTION 6.  Sections 39.904(g), (h), (i), and (j), Utilities Code, are repealed.

SECTION 7.  The changes in law made by this Act apply only to a proceeding affecting a certificate of public convenience and necessity that commences on or after the effective date of this Act. A proceeding affecting a certificate of public convenience and necessity that commenced before the effective date of this Act is governed by the law in effect on the date the proceeding is commenced, and that law is continued in effect for that purpose.

SECTION 8.  The recovery of a transmission facility investment made by an electric utility to serve a competitive renewable energy zone is governed by the law in effect on the date the facility is placed in service, regardless of whether the facility is completed before, on, or after the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 9.  This Act takes effect September 1, 2021.